



4310-GG

## **DEPARTMENT OF INTERIOR**

### **Bureau of Land Management**

**[15X; LLWO120920.L16300000.NU0000.241A; MO 4500075770]**

### **Proposed Idaho Statewide Supplementary Rules**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed supplementary rules.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to establish statewide supplementary rules for lands managed by the BLM in Idaho. These rules are necessary to protect natural resources and the health and safety of public land users within Idaho. These supplementary rules would allow BLM law enforcement personnel and partner agencies to address gaps in current regulations, to continue enforcing existing public land regulations in a manner consistent with current State of Idaho statutes, and provide more clarity for public land users.

**DATES:** Interested parties may submit written comments regarding the proposed supplementary rules until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The BLM is not obligated to consider comments postmarked or received in person or by electronic mail after this date.

**ADDRESSES:** Please mail or hand-deliver comments to Keith McGrath, State Chief Law Enforcement Ranger, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709; or email comments to [BLM\\_ID\\_LE\\_SUPPRULES@blm.gov](mailto:BLM_ID_LE_SUPPRULES@blm.gov).

**FOR FURTHER INFORMATION CONTACT:** Keith McGrath, Bureau of Land Management, (208) 373-4046, KMcGrath@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800)-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Visitors to public lands administered by the BLM in Idaho encounter inconsistent rules among public management agencies, both Federal and State, regarding appropriate conduct in recreation areas. These inconsistencies hamper the BLM's ability to provide a safe recreational experience and minimize conflicts among users, and also detract from the quality of the user-experience. There are gaps in the regulations as they pertain to certain activities that typically occur on BLM-administered lands. The BLM proposes these supplementary rules to improve consistency and to enhance public safety and resource protection on public lands within Idaho. BLM-Idaho law enforcement staff (State Chief Ranger and Supervisory Ranger) have consulted with the Idaho Department of Fish and Game (IDFG) on these proposed supplementary rules. The IDFG has indicated that it supports this effort.

The BLM is proposing the following rules under the authority of 43 CFR 8365.1-6, which allows BLM State Directors to establish supplementary rules for the protection of persons, property, and public lands and resources by more clearly and effectively

coordinating partnership arrangements with State and local law enforcement officials on BLM-managed lands.

Hunting blinds: Big game such as mule deer and pronghorn antelope are abundant on Idaho's rangelands. The wide-open landscape provides little or no concealment for hunters on these lands, and blinds have become a key component of hunting in portions of Idaho. However, their increased use has often resulted in resource damage, additional litter, conflicts among hunters, and hazards for other land users. The BLM fully supports hunters having the option to utilize blinds while hunting on public lands; however, the BLM does not currently have regulations to govern their use. The BLM proposes a supplementary rule that mirrors IDFG best practices, as presented in the BLM/IDFG brochure, "Using Big Game Hunting Blinds on BLM-Managed Lands in Idaho."

The proposed supplementary rule would:

- Require hunting blinds to be constructed of removable materials;
- Prohibit the permanent placement of materials;
- Require the hunter's full name and zip code to be permanently attached, etched, engraved or painted on the blind;
- Allow blinds to be placed no earlier than 10 days before the beginning of the hunting season for which the hunter has a valid tag and require blinds to be removed within 7 days after the close of that hunting season; and
- Inform users that the placement of a blind on public lands does not create an exclusive right of use.

Litter: Recreational shooting is a common and accepted activity on BLM-administered lands. However, many areas where recreational shooting takes place are covered with

broken glass and other materials that shatter or are dispersed when used as targets. The BLM proposes two supplementary rules pertaining to recreational shooting targets with the goal of reducing litter on public lands.

The first proposal in this category would prohibit shooting of any object that contains glass or other material that can shatter, with the exception of clay pigeons commonly used as shotgun targets. Targets that would be prohibited under this rule would include, but not be limited to, televisions, computer monitors, and glass bottles. This rule would help reduce the likelihood that contaminants associated with some of these items (such as lead, cadmium, beryllium, or brominated flame retardant – components of televisions and monitors) will be released into soils and water. In addition, it is very difficult to clean up and remove glass or other materials that shatter. Broken glass is also a safety hazard to public lands users. This supplementary rule would not preclude the use/shooting of clay pigeons commonly used as targets for skeet or trap shooting because those items are typically made from biodegradable materials and are unlikely to cause harm.

The second proposed rule in this category would require users engaged in recreational shooting to remove all target material and shooting-related debris from the target area. In addition to shatterable objects, recreational shooters sometimes use materials dumped illegally on public lands as targets. This proposal would help reduce the dispersal of trash on public lands and decrease the risk that potentially harmful material would be reduced to a size ingestible by livestock and wildlife. This requirement would not apply to shards from clay pigeons.

Use and disposal of construction materials: The BLM proposes to prohibit the possession and/or burning of firewood, wood pallets, or construction debris containing nails, screws,

or other metal hardware, including, but not limited to, wood pallets and/or construction materials, on public lands for other than their originally intended use. The BLM also proposes to prohibit the use and possession of wood byproduct pallets that contain metal fasteners for other than their intended use. These materials are frequently carried onto public lands for purposes other than those for which they were originally designed. Examples of such uses include burning, disposal, and use as targets. Typically, users do not remove the metal hardware before or after carrying the materials onto public lands. It is not practical or cost effective for the BLM to determine whether nails are in each fire pit, to remove the nails from litter piles, or to collect dispersed sharp metal objects. A vehicle driven over areas previously used as fire pits or dumpsites is likely to experience tire damage from nails and other metal objects. There is also significant danger of damage and/or injury to personal property, livestock, and other animals in the area. For these reasons, the BLM proposes to prohibit the possession, disposal, and burning of any type of firewood, wood pallets, or construction debris containing nails, screws, or other metal hardware.

Public nudity: The BLM recognizes that some individuals and groups desire clothing-optional recreation. However, in areas where recreational opportunities and/or facilities draw large numbers of visitors, public nudity can create controversy and conflicts among users, and cause law enforcement concerns. The intent of the proposed supplementary rule is to prohibit public nudity at all developed sites, hot springs, and other high visitation areas. This would still allow lands with a lower concentration of visitors, such as wilderness areas, to be clothing-optional.

Motor vehicle use: To be more consistent with Idaho law, the BLM proposes a supplementary rule requiring operators of motor vehicles and off highway vehicles to obey all traffic control devices on public land. Frequently, the BLM, State or counties post traffic-control devices on public lands for the safety of visitors and the motoring public. In many places, State and county law enforcement do not have the resources to adequately patrol BLM-managed lands and enforce traffic controls on these lands. This proposed supplementary rule would bring consistency to all BLM-administered land throughout the State and promote consistency among the BLM and other agencies, including the State of Idaho, County Sheriff's Offices, Idaho State Police, and various Federal agencies where working relationships and partnerships in public land management exist.

## II. Public Comment Procedures

Please mail or hand-deliver comments to Keith McGrath, State Chief Law Enforcement Ranger, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, ID 83709; or email comments to [BLM\\_ID\\_LE\\_SUPPRULES@blm.gov](mailto:BLM_ID_LE_SUPPRULES@blm.gov). Written comments on the proposed supplementary rules should be specific and confined to issues pertinent to the proposed rule and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal the commenter is addressing. The BLM is not obligated to consider, or include in the Administrative Record for the final supplementary rules, comments delivered to an address other than those listed above (See ADDRESSES section) or comments that the BLM receives after the close of the comment period (See DATES section), unless they are postmarked or electronically dated before the deadline.

Comments, including names, street addresses, and other contact information for respondents, will be available for public review at the BLM Idaho State Office address listed in the ADDRESSES section during regular business hours (7:45 a.m. to 3:45 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, e-mail address, or other personal identifying information, be aware that your comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

### III. Procedural Matters

#### Executive Order 12866, Regulatory Planning and Review

The proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. The proposed supplementary rules will not have an effect of \$100 million or more on the economy. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The proposed supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. The rules merely contain rules of conduct for public use of a limited selection of public lands and provide greater consistency with the Idaho State Code to protect public health and safety.

## Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the proposed supplementary rules clearly stated?
- (2) Do the proposed supplementary rules contain technical language or jargon interfering with their clarity?
- (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of the proposed supplementary rules in the SUPPLEMENTARY INFORMATION section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the proposed supplementary rules to the address specified in the ADDRESSES section.

## National Environmental Policy Act (NEPA)

The BLM has determined that these proposed supplementary rules are administrative in nature, and are therefore categorically excluded from environmental review under Section 102(2)(C) of NEPA, 43 CFR 46.205, and 43 CFR 46.210(c) and (i). These



proposed supplementary rules do not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental regulations, policies, and procedures of the Department of the Interior, the term “categorical exclusions” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

#### Regulatory Flexibility Act (RFA)

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules merely establish rules of conduct for public use of a limited area of public lands and should have no effect on business entities of any size. Therefore, the BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act (SBREFA)

These proposed supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). They would not result in an effect on the economy of \$100 million or

more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. These rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

#### Unfunded Mandates Reform Act

These proposed supplementary rules do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor do these proposed supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

#### Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules do not have significant takings implications, nor are they capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that these rules will not cause a taking of private property or require preparation of a takings assessment.

#### Executive Order 13132, Federalism

The proposed supplementary rules will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed supplementary rules do not conflict with any Idaho state law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules do not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Executive Order 12988, Civil Justice Reform

The BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Executive Order 12988.

#### Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

The BLM has found that these supplementary rules do not include policies that have tribal implications, as defined by Executive Order 13175, and therefore advance consultation with Indian tribal governments is not required.

#### Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

## Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed supplementary rules do not constitute a significant energy action. The proposed supplementary rules will not have an adverse effect on energy supplies, production, or consumption, and have no connection with energy policy.

## Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

## Author

The principal author of this supplementary rule is Keith McGrath, Idaho State Chief Ranger, Bureau of Land Management.

For the reasons stated in the Preamble, and under the authority of 43 CFR 8365.1-6, the Idaho State Director, Bureau of Land Management, proposes supplementary rules for public lands in Idaho, to read as follows:

## SUPPLEMENTARY RULES FOR THE STATE OF IDAHO

### Definitions

Developed recreational area or site means any site or area that contains structures or capital improvement primarily used by the public for recreational purposes. Such areas or

sites include delineated spaces or areas for parking, camping or boat launching; sanitation facilities; potable water; grills or fire rings; tables; or controlled access.

Motor vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck and any motorized conveyance originally equipped with safety belts.

Off-highway vehicle (OHV) means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: 1) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; 2) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; 3) vehicles in official use; and 4) any combat or combat-support vehicle when used in times of national defense emergencies.

Public nudity means nudity in an open place.

Traffic control device means any sign, painted roadway marking, or other device or means for controlling or directing vehicle traffic.

On public land administered by the BLM within the State of Idaho:

1. Hunters must comply with the following hunting blind regulations:
  - a. All construction materials must be removable;
  - b. The hunter's full name and zip code must be permanently attached, etched, engraved or painted on the blind;
  - c. Blinds may be placed no earlier than 10 days before the beginning of the hunting season and must be removed within 7 days after the closing of the hunting season; and

- d. No hunter has exclusive right of use of a hunting blind placed on public lands.
- 2. Persons engaged in shooting activities must not use as targets any objects containing glass or other material that can shatter. Clay pigeons are acceptable targets.
- 3. Persons engaged in shooting activities on public lands must remove and properly dispose of shooting materials, including spent brass or shells, their containers, and any items used as targets, excluding clay pigeon fragments.
- 4. No person shall dispose of, burn or possess, for other than its intended purpose, any type of firewood, wood pallets, pallets made of wood by-products, or construction debris containing nails, screws or other metal hardware.
- 5. Public nudity is prohibited in all developed recreation areas or sites, visitor centers, hot springs and other high visitation areas located on public lands.
- 6. Drivers of motorized vehicles and OHVs on public lands must comply with the directions of a traffic control device unless directed otherwise by an authorized person.

EXEMPTIONS: The following persons are exempt from these supplementary rules:

- A. Any Federal, State, local and/or military personnel acting within the scope of their duties;
- B. Members of any organized rescue or fire-fighting force in performance of an official duty;
- C. Persons, agencies, municipalities, or companies holding an existing special-use permit and operating within the scope of their permit.

PENALTIES: On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

Timothy M. Murphy

BLM Idaho State Director

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